

FISCAL NOTE

HB 2646 - SB 2822

February 5, 2008

SUMMARY OF BILL: Reclassifies certain sexual offenses committed against a child between 13 and 16 years of age as rape of a child, a Class A felony. These offenses currently are classified as statutory rape (Class E felony), aggravated statutory rape (Class D felony), or mitigated statutory rape (Class E felony). Increases the maximum age of a victim, from less than 13 to less than 16 years of age for the offenses of aggravated sexual battery, aggravated statutory rape, soliciting sexual exploitation of a minor, and rape of a child. Enhances the penalty from a Class E to a Class C felony for the offense of soliciting sexual exploitation of a minor who is less than 16 years of age. Increases the age of a victim, from at least 15 to at least 16 years, for the offense of mitigated statutory rape.

ESTIMATED FISCAL IMPACT:

Increase State Expenditures – \$14,797,000/Incarceration*

Assumptions:

- An average of 76 admissions to the Department of Correction (DOC) for sexual battery offenses in each of the past five years. DOC estimates 20 percent (15) of those victims were between the ages of 13 and 16. Fifteen offenders will be convicted of aggravated sexual battery involving a victim less than 16 years of age, and will serve an additional 6.5 years (an increase from 0.3 years for a Class E felony offense of sexual battery to 6.8 years for a Class B felony offense of aggravated sexual battery) as a result of this bill.
- According to the U.S. Census Bureau, population growth in Tennessee has averaged 1.09 percent per year for the past ten years. Population growth will result in two additional offenders in the tenth year as a result of this bill. According to DOC, the average operating cost per inmate per day for calendar year 2008 is \$62.78.
- The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on 17 offenders. The cost per inmate at 0.3 years is \$6,879.43 (\$62.78 x 109.58 days). The cost per inmate at 6.8 years is \$155,926.69 (\$62.78 x 2,483.70 days). The additional cost of increasing the average sentence length from 0.3 years to 6.8 years is \$149,047.26

(\$155,926.69 - \$6,879.43). The total additional cost for 17 offenders is \$2,533,803.42 (\$149,047.26 x 17).

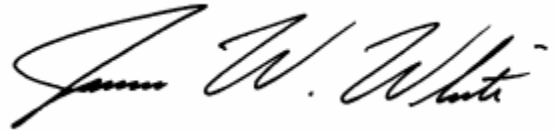
- An average of 119 admissions to DOC for statutory rape offenses in each of the past five years. DOC estimates 40 percent (48) of those victims were between the ages of 13 and 16, and 80 percent (38) of those would be Class E felony offenses and the remaining 20 percent (10) would be Class D felony offenses under existing law. Under this bill, these offenses would be elevated to the Class A felony of rape of a child and would serve 25 years at 100 percent.
- Thirty-eight offenders will be convicted of rape of a child who previously would have been convicted of mitigated statutory rape or statutory rape. Population growth of 1.09 percent per year will result in four additional offenders serving an additional 24.7 years (an increase from 0.3 years for a Class E felony to 25.0 years for a Class A felony offense). The maximum cost is based on 42 offenders in the tenth year. The cost per inmate at 0.3 years is \$6,879.43 (\$62.78 x 109.58 days). The cost per inmate at 25.0 years is \$573,259.88 (\$62.78 x 9,131.25 days). The cost per inmate in the tenth year is \$236,183.38 (\$62.78 x 3,762.08 days). The additional cost of increasing the average sentence length from 0.3 years to 25.0 years is \$229,303.95 (\$236,183.38 - \$6,879.43). The total additional operating cost for 42 offenders in the tenth year is \$9,630,765.90 (\$229,303.95 x 42).
- Ten offenders will be convicted of rape of a child who previously would have been convicted of aggravated statutory rape. Population growth of 1.09 percent per year will result in one additional offender serving an additional 24.4 years (an increase from 0.6 years for a Class D felony to 25.0 years for a Class A felony offense). The maximum cost is based on 11 offenders in the tenth year. The cost per inmate at 0.6 years is \$13,758.24 (\$62.78 x 219.15 days). The cost per inmate at 25.0 years is \$573,259.88 (\$62.78 x 9,131.25 days). The cost per inmate in the tenth year is \$243,062.19 (\$62.78 x 3,871.65 days). The additional cost of increasing the average sentence length from 0.6 years to 25.0 years is \$229,303.95 (\$243,062.19 - \$13,758.24). The total additional operating cost for 11 offenders in the tenth year is \$2,522,343.45 (\$229,303.95 x 11).
- One offender per year will be convicted of a Class E felony of sexual exploitation of a minor by electronic means and will serve 2.55 years (85 percent of three years) as a result of this bill. The cost per inmate at 2.55 years is \$58,472.66 (\$62.78 x 931.39 days).
- One offender will receive a Class C felony for sexual exploitation of a minor, 16 years of age or less, by electronic means and will serve an additional 2.25 years (an increase from 0.3 years to 2.55 years) as a result of this bill. The cost per inmate at 0.3 years is \$6,879.43 (\$62.78 x 109.58 days). The cost per inmate at 2.55 years is \$58,472.66 (\$62.78 x 931.39 days). The additional cost of increasing the average sentence

length from 0.3 years to 2.55 years is \$51,593.23 (\$58,472.66 - \$6,879.43).

**Tennessee Code Annotated, Section 9-4-210, requires that: For any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state facilities, there shall be appropriated from recurring revenues the estimated operating cost of such law. The amount appropriated from recurring revenues shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, appearing to read "James W. White". The signature is fluid and cursive, with the first name "James" written in a larger, more prominent script than the last name "White".

James W. White, Executive Director

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